

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/index.asp

Case No. A-6276

PETITION OF MINO ECONOMIDES

(Hearing held January 21, 2009)

OPINION OF THE BOARD

(Effective date of Opinion, March 13, 2009)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes the construction of a one-story addition/sunroom that requires a variance of seven (7) feet as it reduces the sum of both side yards to eighteen (18) feet. The required sum of both side yards is twenty-five (25) feet.

Bill Reames, the general manager of Patio Enclosures, appeared with the petitioner at the public hearing.

The subject property is Lot 21, Block 25, Kenwood Park Subdivision, located at 6265 Clearwood Road, Bethesda, Maryland, 20815, in the R-90 Zone (Tax Account No. 00620276).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes the construction of a 12 x 16 foot one-story addition/sunroom.
2. Mr. Reames testified that the petitioner's lot is exceptionally narrow and that this condition is not generally shared with the neighboring properties. Mr. Reames testified that the subject property narrows from front to rear and that the front of the lot 120 feet in width and that its rear width is 110 feet. Mr. Reames testified that the lot's topography slopes upward from front to back and that the house is sited at a higher elevation than the street. Mr. Reames testified that the subject property is 11,351 square feet and that the property's

buildable envelope is 3,321 square feet. See Exhibit Nos. 4 [site plan] and 8 [zoning vicinity map].

3. Mr. Reames testified that the proposed construction would be unfeasible elsewhere on the property because of the location of the existing windows and the basement stairwell. Mr. Reames testified that the proposed addition will be built at the rear of the house, which already have an existing door and a foundation. The petitioner testified that he has spoken with several neighbors and that they had no objections to the proposed construction.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the petitioner's lot has not exceptional topographical or other conditions that are peculiar to the subject property and that are not shared by the neighboring properties. The Board finds that the subject property significantly exceeds the minimum lot size and lot width for the zone. The Board finds that for purposes of evaluating a petition for a variance that uniqueness or peculiarity of a property does not refer to the extent of the improvements on the property or the location of the house. *Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md. App. 324, 653 A.2d 532 (1995).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of seven (7) feet from the required twenty-five (25) sum of both side yards requirement for the construction of a one-story addition/sunroom is denied.

The Board adopted the following Resolution:

Board member Walter S. Booth was necessarily absent and did not participate in this Resolution. On a motion by Carolyn J. Shawaker, seconded by David K. Perdue, with Katherine G. Titus, Vice Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Catherine G. Titus
Vice Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 13th day of March, 2009.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have the right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.